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In re Application of  
FENDYA, Thomas J. *et al*  
U.S. Application No.: 09/890,355  
PCT No.: PCT/US00/02071  
Int. Filing Date: 31 January 2000  
Priority Date: 29 January 1999  
Attorney's Docket No.: 440490  
For: SEPARATION DEVICES AND  
PROCESSES

**DECISION ON  
PETITION  
UNDER 37 CFR 1.182**

This decision is in response to applicants' "Petition Pursuant to 37 CFR 1.182" ("Pet.") filed on 18 November 2004.

**BACKGROUND**

On 30 July 2001, applicants filed for entry into the national stage in the United States under 35 U.S.C. 371. Applicants listed the international application number as PCT/US00/02701 on the transmittal letter (Form PTO-1390).

On 28 December 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee must be provided.

On 28 March 2002, applicants filed a "Response to Notification of Missing Requirements" which was accompanied by, *inter alia*, a one-month extension and \$110.00 extension fee, the \$130.00 surcharge fee and a declaration executed by four joint inventors. The declaration listed the international application as PCT/US00/02071, not PCT/US00/02701.

On 23 April 2002, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) advising applicants that the 35 U.S.C. 371 requirements were satisfied for the national stage of PCT/US00/02701 on 28 March 2002.

On 18 June 2002, applicant filed a "Letter" which was accompanied by a declaration listing all five joint inventors for PCT/US00/02071. This declaration was in compliance with 37 CFR 1.497(a) and (b).

On 18 November 2004, applicants filed the instant petition under 37 CFR 1.182.

### **DISCUSSION**

Petitioners claim that on entering the national stage on 30 July 2001 for PCT/US00/02071, applicants "incorrectly identified the International Application No. as PCT/US00/02701." Pet. at ¶ 2. Accordingly, petitioners request "for the application corresponding to International Application No. PCT/US00/02071 to be placed in the file and for examination of the correct application." Id. at ¶ 1.

A review of the above-captioned application file revealed that the wrong international application number, *i.e.*, PCT/US00/02701, was designated on the transmittal letter filed with the national stage papers on 30 July 2001. The title, name, and priority date claimed on the transmittal letter corresponded to PCT/US00/02071, not PCT/US00/02701. Applicants also submitted an Application Data Sheet referencing PCT/US00/02071 filed 31 January 2000 and U.S. application No. 60/114,972 filed 29 January 1999 under "Foreign Application Information" with the national stage papers.

Applicants submitted an executed declaration referencing PCT/US00/02071 on 28 March 2002. The DO/EO/US mailed a Form PCT/DO/EO/903 and filing receipt on 23 April 2002 indicating an international application number for the above-captioned application of PCT/US00/02701.

A check of PCT/US00/02071 shows that it has the same title, inventors, priority date and international filing date as listed on the transmittal letter, Application Data Sheet and declaration. Thus, it is clear that a typographical error was made on the transmittal letter. Applicants submitted authorization to charge the required petition fee of \$130.00 to Deposit Account No. 12-1216 with the instant petition.

Applicants have met all the requirements of a grantable petition.

### **CONCLUSION**

For the reasons listed above, applicants' petition under 37 CFR 1.182 to correct the PCT application number is **GRANTED**.

The above-captioned application is a national stage of **PCT/US00/2071**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 23 April 2002 recorded the wrong international application number and priority date for the international application. Hence, it is hereby **VACATED**.

The Office Action mailed 09 July 2004 was based on PCT/US00/02701 and is also **VACATED**.

The declaration filed 28 March 2002 recorded only four joint inventors for PCT/US00/02071. Marc Samson was not listed as a joint inventor. The declaration filed 18 June 2002 lists all five joint inventors and is in compliance with 37 CFR 1.497(a) and (b).

This application is being forwarded to the DO/EO/US to mail a Notification of Acceptance of Application Under 35 U.S.C. 371 indicating an international filing date of 31 January 2000, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of **18 June 2002**, and then mailing a corrected filing receipt.

The application will then be forwarded to Technology Center 2600 for further processing and examination.



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